

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

GABRIEL ROSA-DIAZ,	:	Civil No. 1:17-cv-2215
	:	
Plaintiff,	:	
	:	
v.	:	
	:	
LAUREL HARRY, et al.,	:	
	:	
Defendants.	:	Judge Sylvia H. Rambo

ORDER

Before the court is a report and recommendation filed by the magistrate judge in which he addresses the volume and prolixity of the civil complaint and recommends that a number of the claims set forth in the complaint be dismissed. In his objections to the report and recommendation, Plaintiff Rosa-Diaz agrees that his claims of verbal harassment should be removed from the complaint (Doc. 9, p. 2) and that some of his claims for injunctive relief should also be removed.

The explanations that Plaintiff attempts to give in response to the report and recommendation should be set forth in an amended complaint which complies with Federal Rules of Civil Procedure 8 and 20 and the cases of *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544 (2007) and *Ashcroft v. Iqbal*, ___ U.S. ___, 129 S. Ct. 1937 (2009), and addresses the defects cited in the report and recommendation (Doc. 7).

Accordingly, **IT IS HEREBY ORDERED** that:

- 1) The report and recommendation of the magistrate judge is **ADOPTED** as follows:
 - a. The following claims are **DISMISSED WITHOUT PREJUDICE** to the filing of an amended complaint which addresses:
 - i. Claims for injunctive relief;
 - ii. Eighth Amendment claims premised on isolated restrictions on recreation and refusal of meals.
- 2) All verbal harassment claims are **DISMISSED WITH PREJUDICE**.
- 3) The amended complaint shall comply with the instructions of the magistrate judge and shall not misjoin defendants and claims (*see* Doc. 7, pp. 9-11).
- 4) Plaintiff shall have 20 days from the date of this order to file an amended complaint or new complaints that comply with Civil Rules of Procedure 8 and 20.
- 5) This matter is remanded to the magistrate judge.

s/Sylvia H. Rambo

SYLVIA H. RAMBO

United States District Judge

Dated: January 4, 2018